

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appl. No. : 10/538,097
Applicant(s) : SERVERIUS PETRUS PAULUS PRONK ET AL.
Filed : JUNE 8, 2005
Conf. No. : 6929
A.U. : 2151
Examiner : TANG, KAREN C.
Atty. Docket : NL 021380
Title: SHARED MEDIUM COMMUNICATION SYSTEM

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants herewith respectfully present a Brief on Appeal as follows, having filed a Notice of Appeal on June 27, 2008:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellants and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1, 3-4, 6-8, 10-12 and 16 are pending in this application where claims 2, 5, 9, 13-15 and 17-20 had been canceled without prejudice. Claims 1, 3-4, 6-8, 10-12 and 16 are rejected in the Final Office Action mailed April 1, 2008. This rejection was upheld, in an Advisory Action that mailed June 16, 2008. Claims 1, 3-4, 6-8, 10-12 and 16 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellants filed on June 2, 2008 an after final amendment in response to a Final Office Action mailed on April 1, 2008. The after final amendment included amendments to claim 16. In an Advisory Action mailed on June 16, 2008, it is indicated that the after final amendment filed on June 2, 2008 will be entered but does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed April 1, 2008, that finally rejected claims 1, 3-4, 6-8, 10-12 and 16, which remain finally rejected in the Advisory Action mailed on June 16, 2008.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, is directed to a shared medium communication system 100 shown in FIG 1 and described on page 4, lines 1-21, where the system 100 comprises a primary station 102 arranged to receive an access request 108, process the access request 108 and send a grant 110 in response to the access request 108. A secondary station 104 of the system 100 sends the access request 108 and for receiving the grant 110. A shared medium 106 couples the primary station 102 with the secondary station 104.

The secondary station 104 is arranged to merge several access requests into a multi request 108 and send the multi request to the primary station 102. The primary station 102 is arranged to receive the multi request 108, process the multi request 108 and send the grant 110 in response to the access requests 108 merged in the multi request 108.

As described on page 3, line 31 to page 4, line 18, the secondary station 104 is arranged to adapt the merging of the access requests 108 in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

The present invention, for example, as recited in independent claim 4, is directed to a secondary station 104 shown in FIG 1 and described on page 4, lines 1-21, where the secondary station 104 sends an access request 108 to a primary station 102 and receives a grant 110 from the primary station 102 in response to the access request 108. The access request 108 comprises a request for access to a shared medium 106, wherein the secondary station 104 is arranged to merge several access requests 108 into a multi request 108 and send the multi request 108 to the primary station 102.

As described on page 3, line 31 to page 4, line 18, the secondary station 104 is arranged to adapt the merging of the access requests 108 in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

The present invention, for example, as recited in independent claim 7, is directed to a primary station 102 shown in FIG 1 and described on page 4, lines 1-21, where the primary station 102 receives an access request 108 from a secondary station 104, processes the access request 108, and sends a grant 110 to the secondary station 104 in response to the access request 108. The access request comprises a request for access to a shared medium 106, wherein the primary station 102 is arranged to receive a multi request 108 containing several merged access requests, process the multi request 108 and send the grants 110 to the secondary station 104 in response to the access requests in the multi request 108.

As described on page 3, line 31 to page 4, line 18, the secondary station 104 is arranged to adapt the merging of the access requests 108 in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

The present invention, for example, as recited in independent claim 8, is directed to a method of operating a shared medium communication system 100 shown in FIG 1 and described on page 4, lines 1-21, where the method comprises a primary station 102 receiving an access request 108, processing the access request 108, and sending a grant 110 in response to the access request 108. A secondary station 104 sends the access request 108 to, and receives the grant 110 from the primary station 102. The access request comprises a request for access to a shared medium 106. The secondary station 104 merges several access requests 108 into a multi request 108 and sends the multi request 108 to the primary station 102. The primary station 102 receives the multi request 108, processes the multi request 108 and sends the grants 110 in response to the access requests 108 merged in the multi request 108.

As described on page 3, line 31 to page 4, line 18, the secondary station 104 is arranged to adapt the merging in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

The present invention, for example, as recited in independent claim 11, is directed to a method of sending an access request 110 to a primary station 102

shown in FIG 1 and described on page 4, lines 1-21, where a grant 110 is received from the primary station 102 in response to the access request 108. The access request 108 comprises a request for access to a shared medium 106. The method comprises merging several access requests into a multi request 108; and sending the multi request 108 to the primary station 102.

As described on page 3, line 31 to page 4, line 18, the merging is adapted in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

The present invention, for example, as recited in independent claim 12, is directed to a method of receiving an access request 108 from a secondary station 104, shown in FIG 1 and described on page 4, lines 1-21, processing the access request 108 and sending a grant 110 to the secondary station 104 in response to the access request, the access request 108 comprising a request for access to a shared medium 106. The method comprises receiving a multi request 108 comprising merged access requests 108; processing the multi request 108; and sending the grants 110 to the secondary station 104 in response to the access requests 108 merged in the multi request 108.

As described on page 3, line 31 to page 4, line 18, the number of requests merged into the multi request 108 is adapted in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 14-15 and 17-20 of U.S. Patent Application Serial No. 10/538,097 comply with 35 U.S.C. §112, first paragraph;

Whether claims 1, 3-4, 6-8, 10-12 and 16 of U.S. Patent Application Serial No. 10/538,097 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 5,917,822 (Lyles) in view of U.S. Patent Application Publication No. 2002/0176361 (Wu); and

Whether claims 14-15 and 17-20 of U.S. Patent Application Serial No. 10/538,097 are unpatentable under 35 U.S.C. §103(a) over Lyles in view of Wu and U.S. Patent No. 6,549,515 (Sourani).

ARGUMENT

Claims 14-15 and 17-20 are said to fail to comply with 35 U.S.C. §112, first paragraph.

The cancellation of claims 14-15 and 17-20 renders moot this rejection.

Claims 1, 3-4, 6-8, 10-12 and 16 are said to be unpatentable over Lyles and Wu.

Appellants respectfully request the Board to address the patentability of independent claims 1, 4, 7-8 and 11-12, and further claims 2, 4-9 and 11-13 as depending from independent claims 1 and 10, based on the requirements of independent claims 1 and 10. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of claims 2, 4-9 and 11-13 at a later date should the separately patentable subject matter of claims 2, 4-9 and 11-13 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claims 1 and 10 is not intended as a waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

On page 5 of the Final Office Action, the Examiner correctly noted that Lyles does not teach or suggest merging and sending of request in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received. Wu is cited in an attempt to remedy the deficiencies in Lyles.

Wu discloses in paragraph [0029] that:

[d]uring a learning phase, data are transmitted at a relative slow and "safe" constant rate to collect a history of feedback messages.... After the learning phase, the data rate [between a

transmitter and a receiver] is adapted to best utilize the available bandwidth without congestion. (Emphasis added)

Wu further discloses in paragraph [0028] that:

[i]n response to receiving packets, the receiver 102 sends **feedback messages** 106-107 upstream, (Emphasis added)

Thus, the Wu feedback messages are provided in response to receiving packets. There is simply no disclosure or suggestion in Lyles, Wu, and combination thereof, of the present invention as recited in independent claim 1, and similarly recited in independent claims 4, 7-8 and 11-12 which, amongst other patentable elements, recites (illustrative emphasis provided):

wherein the secondary station is arranged to adapt the merging of the access requests in **dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.**

The Wu feedback messages, that are provided in response to receiving packets, are not equivalent to "histories of access requests previously merged, multi requests previously sent and/or grants previously received," as recited in independent claim 1, and similarly recited in independent claims 4, 7-8 and 11-12. Sourani is cited to allegedly show other features and does not remedy the deficiencies in Lyles and Wu.

Accordingly, it is respectfully submitted that independent claims 1, 4, 7-8 and 11-12 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 3, 6, 10 and 16 should also be allowed at least based on their dependence from independent claims 1, 4 and 8.

Claims 14-15 and 17-20 are said to be unpatentable over Lyles, Wu and Sourani.


The cancellation of Claims 14-15 and 17-20 renders moot this rejection.

CONCLUSION

Claims 1, 3-4, 6-8, 10-12 and 16 are patentable over Lyles, Wu and Sourani.

Thus, the Examiner's rejections of claims 1, 3-4, 6-8, 10-12 and 16 should be reversed.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Appellants
August 27, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

CLAIMS APPENDIX

1.(Previously Presented) A shared medium communication system comprising:

a primary station arranged to receive an access request, process the access request and send a grant in response to the access request;

a secondary station for sending the access request and for receiving the grant; and

a shared medium coupling the primary station with the secondary station, wherein the secondary station is arranged to merge several access requests into a multi request and send the multi request to the primary station, and wherein the primary station is arranged to receive the multi request, process the multi request and send the grant in response to the access requests merged in the multi request, and

wherein the secondary station is arranged to adapt the merging of the access requests in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

Claim 2 (Canceled)

3.(Previously Presented) The shared medium communication system as claimed in claim 1, wherein the secondary station is arranged to adapt the sending of the multi request in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

4.(Previously Presented) A secondary station for sending an access request to a primary station and for receiving a grant from the primary station in response to the access request, the access request comprising a request for access to a shared medium, wherein the secondary station is arranged to merge several access

requests into a multi request and send the multi request to the primary station, and wherein the secondary station is arranged to adapt the merging of the access requests in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

Claim 5 (Canceled)

6.(Previously Presented) The secondary station as claimed in claim 4, wherein the secondary station is arranged to adapt the sending of the multi request in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

7.(Previously Presented) A primary station for receiving an access request from a secondary station, for processing the access request and for sending a grant to the secondary station in response to the access request, the access request comprising a request for access to a shared medium, wherein the primary station is arranged to receive a multi request containing several merged access requests, process the multi request and send the grants to the secondary station in response to the access requests in the multi request, and wherein the secondary station is arranged to adapt the merging of the access requests in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

8.(Previously Presented) A method of operating a shared medium communication system, the method comprising the acts of:

- a primary station receiving an access request, processing the access request and sending a grant in response to the access request,

- a secondary station sending the access request to and receiving the grant from the primary station, the access request comprising a request for access to a shared medium,

the secondary station merging several access requests into a multi request and sending the multi request to the primary station, wherein the merging act is adapted in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received, and

the primary station receiving the multi request, processing the multi request and sending the grants in response to the access requests merged in the multi request.

Claim 9 (Canceled)

10.(Previously Presented) The method as claimed in claim 8, the sending act is adapted in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

11.(Previously Presented) A method of sending an access request to a primary station and receiving a grant from the primary station in response to the access request, the access request comprising a request for access to a shared medium, wherein the method comprises the acts of:

merging several access requests into a multi request; and

sending the multi request to the primary station, wherein the merging act is adapted in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

12.(Previously Presented) A method of receiving an access request from a secondary station, processing the access request and sending a grant to the secondary station in response to the access request, the access request comprising a request for access to a shared medium, wherein the method comprises the acts of:

receiving a multi request comprising merged access requests,
processing the multi request; and

sending the grants to the secondary station in response to the access requests merged in the multi request, wherein a number of requests merged into the multi request is adapted in dependence on histories of access requests previously merged, multi requests previously sent and/or grants previously received.

Claims 13-15 (Canceled)

16.(Previously Presented) The shared medium communication system of claim 1, wherein the traffic load is predicted from the histories of access requests previously merged, multi requests previously sent and/or grants previously received.

Claims 17-20 (Canceled)

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None